

**S.S. Angadi, Retd. Joint Director Of Horticulture Of ... vs
The State Chief Information Commissioner, Karnataka ...
on 29 February, 2008**

Karnataka High Court

S.S. Angadi, Retd. Joint Director Of Horticulture Of State
Government vs The State Chief Information Commissioner, Karnataka
Information Commission And The President, Basava Samithi (A Society
Registered Under Karnataka Societies Registration Act, 1961) on
29/2/2008

ORDER

K.L. Manjunath, J.

1. Heard the petitioner who is party-in-person and the government Advocate for respondent-1.

2. The petitioner as a member of Basava Samithi, a society registered under the provisions of the Karnataka Societies Registration Act 1961 filed an application under Section 6 of the Right to Information Act, 2005, to the President of the Basava Samithi, Bangalore requesting him to furnish certain information and inspection of the records. The same was submitted to the 2nd respondent by the petitioner on 22.9.2006.

3. Contending that the representation of the petitioner had not been considered by the 2nd respondent, the petitioner lodged a complaint under Section 18 of the Act. The Information Commissioner has rejected the complaint lodged by the petitioner on the ground that the 2nd respondent does not come under the provisions of the Right to Information Act 2005. Accordingly, the complaint is rejected on 10.12.2007 as per Annexure-C, The legality and correctness of this order is called in question in this Writ Petition.

4. According to the petitioner, the Commissioner has committed an error in rejecting his complaint on the ground that the provisions of the Right to Information Act 2005 does not apply to a Society registered under the provisions of the Karnataka Societies Registration Act 1960. According to him, under Section 27 of the Karnataka Societies

Registration Act 1960, the District Registrar has got full power and control and even he has power to appoint a Administrator, if any Association is not discharging its duties in accordance with the Societies Registration Act. He further submits that when the Society is registered under the provisions of the Act, when the State of Karnataka is exercising its power to control the management of the society, the Right to Information Act 2005 is also applicable to such Societies. He mainly places reliance on the definition clause envisaged in Section 2(h)(c) and also (d) of the Right to Information Act. Therefore, he requests the Court to quash Annexure-C passed by the Information Commissioner.

5. Per contra, the learned Govt. Pleader contends that the Writ Petition is not maintainable and that the order passed by the Information Commissioner is just and proper and he has not committed any illegality in rejecting the complaint of the petitioner. According to him, the reapondent-2 has been registered under the provisions of the Karnataka Societies Registration Act 1960 and that the same is established by private individuals and that the State of Karnataka has no power or control over the same except to over see the activities of the 2nd respondent. According to him, it is neither created nor established by the State Government and the same is also not a body owned and controlled or substantially financed and it is not a non-Government organisation substantially financed directly or indirectly by funds provided by the appropriate Government and he further contends that 2nd respondent is not a creation of State Legislature. He further contends that whenever an Association is formed by few or many individuals they are required to obtain registration certificate and act in accordance with the bye-laws of such Association and the 2nd respondent has per the provisions of the Act is required to file its account and the other information to the District Registrar from time to time. Only if there is a violation of any of the statutory provisions of the Karnataka Societies Registration Act 1960, then an Administrator can be appointed by the State Government. Therefore, the Commissioner was justified in dismissing the petition.

6. Section 2(h)(c) and (d) of the Right to Information Act, reads as hereunder:

2(h) "Public Authority" means any authority or body or institution of self-Government established or constituted-

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government and includes any-

(i) body owned, controlled or substantially financed;

(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

7. In view of the definition clause of "Public Authority", this Court has to examine whether the 2nd respondent falls under any of the categories of the Public Authority as defined under Section 2(h) of the Act.

8. It is not in dispute that 2nd respondent is not created by any other law made by the State Legislature. It is also not in dispute that it is not a body owned or controlled, or substantially financed by the Government. It is also not a non-Government organisation substantially financed directly or indirectly by funds provided by the appropriate Government.

9. It is no doubt true that any society in Karnataka established by few or many individuals is required to be registered under the Karnataka Societies Act, It is also not in dispute a society registered under the Karnataka Societies Registration Act, is also required to file its annual account and the elections are to be held from time to time in accordance with the bye-laws. The provisions of the Societies Registration Act, 1960 is applicable to all societies are under the control of the Government only to regulate its activities and to see that it shall not misuse the funds of its members. Therefore, such Association cannot be treated as a Public Authority as contended by the petitioner.

10. In the circumstances, this Court does not see any reasons to quash Annexure-C passed by the 1st respondent.

11. Accordingly, the Writ Petition is rejected.